

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE**

IN THE MATTER OF THE APPLICATION OF ACN)
COMMUNICATION SERVICES, INC., FOR A CERTIF-)
IFICATE OF PUBLIC CONVENIENCE AND NECESSITY)
TO PROVIDE LOCAL EXCHANGE TELECOMMUNICA-)
TIONS SERVICES WITHIN THE STATE OF) PSC DOCKET NO. 03-444
DELAWARE, AND FOR REVIEW OF A PLAN FOR)
PROVIDING INTRALATA TOLL DIALING PARITY IN)
ACCORDANCE WITH FEDERAL COMMUNICATIONS)
COMMISSION REQUIREMENTS)
(FILED OCTOBER 14, 2003))

FINDINGS AND ORDER NO. 6356

AND NOW, to-wit, this 10th day of February, 2004, the Public Service Commission ("PSC" or the "Commission") makes the following findings, determination, and Order:

1. On October 14, 2003, ACN Communication Services, Inc. ("ACN"), filed with the Commission an application for a Certificate of Public Convenience and Necessity ("CPCN") to allow it to provide local exchange telecommunications services within Delaware. ACN has also filed an illustrative tariff setting forth the terms and conditions for its proposed services and its proposed dialing parity plan; and

2. Public notice of the application, including a period for filing objections, was published in The News Journal and the Delaware State News newspapers on October 24, 2003. No comments nor objections to the application have been received. The Commission Staff reports that ACN has shown that it has the financial, technical, and managerial capabilities as required for a certificate as set forth in the Commission's "Rules for the Provision of Telecommunications Services."¹ On January 12, 2004, ACN filed a performance bond in the amount of Ten

Thousand Dollars (\$10,000), with corporate surety licensed to do business in Delaware. A Ten Thousand Dollar (\$10,000) performance bond is a requirement of PSC Order No. 5833 in PSC Regulation Dockets Nos. 10 and 45; and

3. The Commission determines that a conditional CPCN should be granted to ACN authorizing it, as a public utility, to offer local exchange telecommunications services under the provisions of the Commission's "Rules for the Provision of Telecommunications Services;"

Now, therefore, **IT IS ORDERED:**

1. That, pursuant to 26 Del. C. §§ 203A and 703(3) and the Commission's "Rules for the Provision of Telecommunications Services," a conditional Certificate of Public Convenience and Necessity is granted to ACN Communication Services, Inc., to operate as a public utility and provide local exchange telecommunications services as described in the application filed on October 14, 2003.

2. That ACN Communication Services, Inc., shall provide local exchange telecommunications services in the manner required by the Commission's "Rules for the Provision of Telecommunications Services," and shall, at all times, comply with all applicable provisions of such Rules. ACN Communication Services, Inc., shall also file all returns and pay all assessments and fees as may be required by the provisions of 26 Del. C. §§ 114 and 115.

3. That the Certificate is awarded upon, and subject to, the following conditions:

¹Adopted in PSC Order No. 5833 (eff. Dec. 10, 2001).

- (a) That ten (10) days prior to the date ACN Communication Services, Inc., intends to offer and implement local exchange telecommunications services, ACN Communication Services, Inc., shall file a tariff or price list with rules, regulations, terms, and conditions of service specifically adopted for Delaware; and
- (b) That ACN Communication Services, Inc., has a Commission approved interconnection agreement or a filed opt-in agreement between ACN Communication Services, Inc., and Verizon Delaware Inc., or another certificated local exchange carrier.

3. That the intraLATA toll dialing parity plan filed by ACN Communication Services, Inc., is approved with the modification expressed in Staff's recommendation in their January 23, 2004 memorandum. The Commission reserves the right to revisit the approval granted here if changed circumstances or complaints (from either consumers or competitors) raise concerns that "real world" implementation of the intraLATA toll dialing parity plan of ACN Communication Services, Inc., does not allow for customers to exercise informed choice in the selection of an intraLATA toll carrier.

4. That the provisions of 26 Del. C. § 208(b) are waived, and ACN Communication Services, Inc., is authorized to maintain its books and records relating to its Delaware operations outside of the State of Delaware provided, however, and upon the condition that, all such books and records relating to Delaware operations as the Commission may deem it reasonably necessary from time to time, to review and copy, shall be provided to the Commission at the Commission's Office within the State of Delaware in a timely manner upon written request by the Commission's

Chief of Technical Services or Executive Director. The conduct of such a review at a location other than Delaware shall be at the Applicant's expense.

6. That ACN Communication Services, Inc., shall comply with all state and federal statutes and rules relating to a customer's selection of a preferred carrier of telecommunications services. ACN Communication Services, Inc., agrees to pay all fees, assessments, penalties, and allowed damages arising from a violation of such state and federal statutes or rules pertaining to the selection of a preferred carrier.

7. That a violation of the "Rules for the Provision of Telecommunications Services" may result in suspension or revocation of this Certificate.

8. That the Commission reserves the jurisdiction and authority to enter such further Orders in this proceeding as may be deemed necessary or proper.

2. That the Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

/s/ Arnetta McRae
Chair

/s/ Joshua M. Twilley
Vice Chair

/s/ Donald J. Puglisi
Commissioner

/s/ Jaymes B. Lester
Commissioner

PSC Docket No. 03-444, Order No. 6356 Cont'd.

/s/ Joann T. Conway
Commissioner

ATTEST:

/s/ Karen J. Nickerson
Secretary